

## Sept. 19, 2013 Planning Commission Agenda Comments

Comments by: Jim Mosher ( [jimmosher@yahoo.com](mailto:jimmosher@yahoo.com) ), 2210 Private Road, Newport Beach 92660 (949-548-6229). ~~strikeout~~ underline format is used to suggest changes to the passages quoted in *italics*

### Item No. 1 Minutes of September 5, 2013

1. Page 1:

- a. Last paragraph: "*Motion made by Vice Chair Tucker and seconded by Commissioner Brown and carried (7 – 0), to approve the Minutes of the Planning Commission meeting of August 22, 2013, as corrected, ~~as file~~.*"

2. Page 2:

- a. Line 1 of first motion: "... to adopt Resolution No. ~~(INSERT RESO NUMBER) ???~~, ..." [note: based on the resolution number identified in the minutes for Item 5 (Woody's Wharf), the present resolution number is probably **1920**, and the resolution for Item 3 (Lido Villas) – which is also not identified -- was probably No. 1921]
- b. Line 5 of amended motion: "... related to the choice of design concepts as **original** originally proposed including ..."

3. Page 3:

- a. Paragraph 2 from end: "Steve Mills, **Dart DART** Development, the applicant, thanked the Commission ..."

4. Page 4:

- a. Paragraph 8: "... the project will be subject to all of the ~~Cal-Green~~ CALGreen regulations ..."

5. Page 7:

- a. Paragraph 4: "Steve Mills, **Dart DART** Development, wondered if ..."
- b. Paragraph 9, line 2: "... and suggested stepping the **side site** slightly ..." [?]
- c. Paragraph 10, line 2: "Discussion followed regarding **minimizing restricting** allowable uses to "condominium and recreational"."
- d. Page 8, paragraph 3: "**Jeremy Jeramey** Harding, **GMB T&B** Planning, City Environmental Consultant, stated that ..."

6. Page 10:

- a. Paragraph 12: "~~Outside Counsel~~ Deputy City Attorney Kyle Rowen noted that ..." [note: the term "Outside Counsel" may have been used at the hearing, but it gives the incorrect impression that Kyle is not connected with the City or the applicant]
- b. Last paragraph: "... when the Planning Commission originally considered the Use Permit in November 2012, **the it** denied patron dancing on the basis that ..."

## 7. Page 12:

- a. Paragraph 2 under Item 7: "*Vice Chair Tucker addressed items for discussion on the General Plan/Local Coastal Program Implementation Land Use Element Amendment Advisory Committee's upcoming agenda.*" [note: the audio indicates Vice Chair Tucker was responding to a question from the Chair regarding LUEAAC, and addressed the CEQA-required SEIR. GP/LCP is a different committee.]

**Item No. 2 216 Crystal Variance (PA2013-118)**

Regarding the draft Resolution of Approval (Attachment PC 1):

1. Section 1.1: "... and legally described as Lot 9, Block 5 requesting ..." [note: Sometimes further information is supplied identifying the map on which this is the description. In the present case, I believe the map being referred to is Balboa Island Section 5.]
2. Section 3:
  - a. A.5: "*The irregularly shaped buildable area **and** prohibits the ability to create additional parking without eliminating the habitable area of the first floor unit.*"
  - b. B.3: "*The existing duplex was permitted in 1951 to provide **a** 1-car garage per unit, per the Zoning Code in **affect effect** at that time.*"
  - c. C.1: "*The unusually large setback area and unusual triangular shape is not typical of other lots within the block or on Balboa Island and significantly limits the floor area and buildable area.*" [note: the City GIS map suggests there are about six triangular lots on Little Balboa Island and a similar number at the west end of the main island. If the desire is that these can all be developed to a FAR of 1.0, should the Zoning Code not be modified to say that?]
  - d. C.3: "*The proposed encroachment into the side yard setback, consistent with the existing structure, is reasonable in this case due to the unusual triangular shape that limits the buildable area.*" [I believe this is referring to the encroachment of the second floor into the alley. It needs, perhaps, to be balanced against the fact that on the ground floor this structure needs to be set back only 4 feet along the bulk of its alley frontage (because the alley is regarded as a "side" setback) compared to the 5 feet (?) required for the other lots along the alley.]
  - e. D.2: "*The proposed side yard setback along E. Bay Front Alley of 2 feet 6 inches is consistent with the existing structure **and** does not result in a special privilege because ...*"
3. Conditions of Approval (Exhibit "A"):
  - a. Condition 2: "*The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.*" [At the August 29, 2013, Zoning Administrator hearing, a resolution for approval omitted this standard condition, supposedly because the City Attorney had determined it (and similar statements reminding the applicant of the continuing applicability of state and other laws, as in Condition 5) to be superfluous, and recommended its removal. Since later resolutions have included it, again, it is unclear what the City's policy is.]

- b. Condition 12: "... to City's approval of the 216 Crystal Avenue Variance including, but not limited to, the Variance No. VA2013-005 (PA2013-118)."
- c. Condition 15: What does "...and to include **sound rating**" mean?
- d. Condition 17: "*The development site is subject to liquefaction zone policy and flood Zone; therefore, the structure shall comply with liquefaction and FEMA guideline policy.*" Does this mean the proposed construction will trigger the need to raise the foundation? If so, wouldn't the plans be completely different?

Regarding the draft Resolution for Denial (Attachment PC 2):

- 1. Section 2: I believe a CEQA determination is not required when an application is being denied (to quote from earlier resolutions of denial: "*Pursuant to Section 15270 of the California Environmental Quality Act (CEQA) Guidelines, projects which a public agency rejects or disapproves are not subject to CEQA review.*")
- 2. Section 4(?): The proposed resolution appears to be missing the Decision and signature sections.